

**BEFORE THE MISSOURI REAL ESTATE COMMISSION**

MISSOURI REAL ESTATE Commission,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 13-1760 RE
	)	
MARK J ROTH	)	
and	)	
PRECISE PROPERTY MANAGEMENT LLC,	)	
	)	
Respondents.	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DISCIPLINARY ORDER**

On or about January 28, 2014, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Mark J. Roth and Precision Property Management LLC*, No. 13-1760 RE. In that Default Decision, the Administrative Hearing Commission found that Respondents Mark J. Roth's real estate broker associate licenses (license nos. 2003024889 and 2011003859) and Precise Property Management LLC's real estate association license (license no. 2011003854) are subject to disciplinary action by the Commission pursuant to § 339.100.2 (15), and (19) RSMo.<sup>1</sup>

The Missouri Real Estate Commission ("Commission") has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on June 11, 2014, at the Division of Professional Registration, 3605 Missouri Boulevard,

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<sup>1</sup>All Statutory References are to the Revised Statutes of Missouri, 2000, as amended, unless otherwise indicated.

Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondents' licenses. All of the members of the Commission, with the exception of Charles Davis, were present throughout the meeting. Further, each member of the Commission that was present for the hearing has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Faraz Nayyar. Respondents having received proper notice and opportunity to appear, Respondent Mark J. Roth appeared in person without legal counsel. Respondent Precise Property Management LLC was not represented by counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues these following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

I.

**FINDINGS OF FACT**

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The Commission hereby adopts and incorporates by reference the findings of fact of the Default Decision and record of the Administrative Hearing Commission in *Mark J Roth and Precise Property Managment*, No. 13-1760 RE, in its entirety and takes official notice thereof and hereby enters its findings of fact consistent therewith.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondents in a proper and timely fashion.

4. The Commission issued Mark J. Roth's real estate broker associate licenses 2003024889 and 2001003859 and Precise Property Management LLC's real estate association license 2011003854. Respondents' licenses were current at all times relevant to this proceeding.

## II.

### CONCLUSIONS OF LAW

5. This Commission has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.100, RSMo.

6. The Commission expressly adopts and incorporates by reference the conclusions of law and Default Decision issued by the Administrative Hearing Commission dated January 29, 2013, in *Missouri Real Estate Commission v. Mark J. Roth and Precise Property Management LLC*, No. 13-1760 RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated January 28, 2014, Respondents' real estate licenses are subject to disciplinary action by the Commission pursuant to § 339.100.2 (15), and (19) RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

## III.

### ORDER

Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that:

Respondent Precise Property Management's real estate association license (license no. 2011003854) is hereby **REVOKED**. All evidence of Respondent Precise Property Management's licensure shall be returned to the Commission within 30 days of this Order along with a Closing of a Real Estate Brokerage/Sole Proprietorship form.

Respondent Mark J. Roth's real estate broker associate licenses (license no. 2003024889 and 2011003859) are hereby **CONVERTED TO A REAL ESTATE SALESPERSON AND PLACED ON FIVE (5) YEARS PROBATION**. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Respondent Mark J. Roth shall be entitled to practice only as a real estate salesperson under Chapter 339, RSMo, as amended, provided Respondent Mark J. Roth adheres to all terms of this Order

The terms and conditions of the disciplinary period are as follows:

A. Respondent Mark J. Roth shall return both of his broker associate licenses to the Commission within 30 days of the date of this order and will be issued a real estate salesperson license.

B. Respondent Mark J. Roth shall complete a Closing of a Real Estate Brokerage/Sole Proprietorship form for LB Realty LLC and return it to the Commission within 30 days of the date of this order.

C. Respondent Mark J. Roth shall provide the Commission with a copy of his social security card and a current address.

D. Respondent Mark J. Roth shall conduct **NO** property management business.

E. Respondent Mark J. Roth shall keep the Commission apprised at all times, in writing, of Respondent's current addresses and telephone numbers at each place of residence and business. Respondent shall notify the Commission within ten (10) days of any change in this information.

F. Respondent Mark J. Roth shall timely renew his real estate license(s), timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain his license(s) in a current and active status. During the disciplinary period, Respondent shall not place his real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250-4.040 or 20 CSR 2250-4.050. Alternatively without violating the terms and conditions of this Order Respondent may surrender his real estate license(s). After surrender, Respondent shall be required to re-qualify as if an original applicant and the Commission will not be precluded from basing its decision, wholly or partially, on the findings of fact, conclusions of law, and disciplinary set forth in this Order.

G. Respondent Mark J. Roth shall meet in person with the Commission or its representative at any such time or place as required by the Commission or its designee upon notification from the Commission or its designee. Said meetings will be at the Commission's discretion and may occur periodically during the probation period.

H. During the probation period, Respondent Mark J. Roth shall accept and comply with unannounced visits from the Commission's representative to monitor compliance with the terms and conditions of this Order.

I. Respondent Mark J. Roth shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federation laws. "State" as used here in includes the State of Missouri and all other states

and territories of the United States. Any cause to discipline Respondent's real estate license under §339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Order.

J. Upon the expiration and successful completion of the disciplinary period, Respondent's respective real estate salesperson license shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Commission determines that Respondent has violated any term or condition of this Order, the Commission may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Respondent's real estate salesperson license. **Respondent Mark J. Roth may apply for a real estate broker license after the conclusion of the disciplinary period, but must meet the full requirements for that license as set forth in § 339.040, RSMO.**

No additional discipline shall be imposed by the Commission pursuant to the preceding paragraph of this Order without notice and opportunity for hearing before the Commission as a contested case in accordance with the provisions of Chapter 536, RSMo.

This Order does not bind the Commission or restrict the remedies available to it concerning any future violations by Respondent Mark J. Roth of §§ 339.010 through 339.205 and §§ 339.710 through 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Order.

This Order does not bid the Commission to restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Order that are either now known to the Commission or may be discovered.

Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.


The terms of this Order are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Order nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharger, or termination is sought.

The parties to this Order understand that the Commission will maintain this Order as an open record of the Commission as provided in Chapters 339, 610, and 324, RSMo.

Respondent Mark J. Roth together with his partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the Commission, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Order. The parties acknowledge that this paragraph is severable from the remaining portions of the Order in that it survives in perpetuity even in the event that any court or administrative tribunal deems this Order or any portion thereof void or unenforceable.

SO ORDERED, EFFECTIVE THIS 25<sup>th</sup> DAY OF June, 2014

MISSOURI REAL ESTATE COMMISSION

  
\_\_\_\_\_  
Janet Carder, Executive Director

Before the  
Administrative Hearing Commission  
State of Missouri



MISSOURI REAL ESTATE COMMISSION, )

Petitioner, )

vs. )

No. 13-1760 RE

PRECISE PROPERTY MANAGEMENT )  
LLC and MARK J. ROTH, )

Respondents. )

**DEFAULT DECISION**

On October 7, 2013, Petitioner filed a properly pled complaint seeking to discipline Respondents. Respondents were served with a copy of the complaint and our notice of complaint/notice of hearing by personal service on November 8, 2013.

More than thirty days have elapsed since Respondents were served. Respondents have not filed an answer or otherwise responded to the complaint. On December 13, 2013, Petitioner filed a motion to enter a default decision. We gave Respondents until December 30, 2013, to respond, but they did not respond.

In accordance with § 621.100.2, RSMo (Supp. 2012), we enter a default decision against Respondents establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on January 28, 2014.

  
SREENIVASA RAO DANDAMUDI  
Commissioner

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**

MISSOURI REAL ESTATE  
COMMISSION

3605 Missouri Boulevard  
P.O. Box 1339  
Jefferson City, MO 65102  
(573) 751-2628

Petitioner,

v.

PRECISE PROPERTY  
MANAGEMENT LLC  
751 E. 63<sup>rd</sup> St., Suite 213  
Kansas City, MO 64131

Serve on: Avrielle Roth  
2308 W. 127<sup>th</sup> St.  
Leawood, KS, 66209

and

MARK J. ROTH  
11018 Olive St.  
Kansas City, MO 64131

Respondents.

OCT 07 2013

ADMINISTRATIVE HEARING  
COMMISSION

No. 13-1760 RE

**COMPLAINT**

Petitioner, Missouri Real Estate Commission ("MREC"), by and through its attorney, the Attorney General of Missouri, states its cause of

action against Precise Property Management, LLC ("Precise Property") and Mark J. Roth ("Roth"):

**Allegations Common to All Counts**

1. The MREC is an agency of the state of Missouri created and existing pursuant to § 339.120, RSMo, for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and §§ 339.710 to 339.855, RSMo (as amended), relating to real estate salespersons and brokers.

2. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.100, RSMo Supp. 2012.

3. Precise Property is licensed as a Real Estate Association, license no. 2011003854. At all times relevant herein, Precise Property's real estate license was current and active.

4. Precise Property Management, LLC is a Missouri limited liability company, charter no. LC1115866.

5. Roth is licensed as a Real Estate Broker Associate, license no. 2011003859 and 2003024889. At all times relevant herein, Roth's real estate license was current and active.

6. Roth is the designated broker for Precise Property, and as such, bears responsibility for his own conduct as well as that of Precise Property and its affiliates.

7. Section 339.710(12), RSMo, defines the term "designated broker"

and provides:

"Designated broker", any individual licensed as a broker who is operating pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, association, limited liability corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, association, limited liability corporation, or corporation. Every real estate partnership, association, or limited liability corporation, or corporation shall appoint a designated broker[.]

8. Rule 20 CSR 2250-8.020(1), regarding the supervision of real estate related activities of a brokerage, states in part:

Individual brokers, designated brokers, and office managers/supervising brokers shall be responsible for supervising the real estate related activities including the protection of any confidential information as defined under 339.710.8, RSMo of all licensed and unlicensed persons associated with them, whether in an individual capacity or through a corporate entity, association or partnership.

#### **August 7, 2012 Failure to Respond-Fingerprints**

9. On August 7, 2012, the MREC sent a letter to Roth's last registered address with the MREC informing him that, following a criminal background check based on his fingerprint submission, the MREC discovered that his social security number did not match the MREC's records.

10. The August 7th letter informed Roth that he must provide a copy of his social security card or other official documentation within 30 days.

11. On October 26, 2012, the MREC re-sent the August 7th letter to Roth renewing its request.

12. Roth has not responded in any way to the MREC's August 7th or October 26th letter.

**August 20, 2012 Failure to Respond-Kelly**

13. On May 7, 2012, the MREC received a complaint regarding the real estate and property management practices of Roth and Precise Property.

14. Craig Kelly, the owner of real property that Roth and Precise Property managed, alleged that Roth and Precise Property owed the complainant \$743.89.

15. After it reviewed the complaint, the MREC sent a letter on or about August 20, 2012 to Roth and Precise Property requesting that Roth and Precise Property provide proof of payment to the property owner.

16. On September 24, 2012, the MREC received a letter from Roth responding to the August 20, 2012 letter stating that he will refund the money owed.

17. On October 4, 2012, the MREC responded to Roth's letter asking Roth and Precise Property to once again provide proof of payment.

18. On or about October 15, 2012, Roth informed the MREC's Enforcement Supervisor over the telephone that Roth had trouble receiving mail through the Postal Service at his registered address and provided the

MREC's Enforcement Supervisor with an email address to communicate through. On or about October 16, 2012, the MREC sent an email to Roth requesting proof of payment.

19. Having not received a reply, the MREC once again sent an email to Roth and Precise Property making the same requests on or about November 20, 2012.

20. On December 24, 2012, the MREC sent another letter to Roth and Precise Property making the same requests and advising Roth and Precise Property that they could be in violation of 20 CSR 2250-8.170(1) if they failed to respond in writing within thirty days. The December 24, 2012 letter was sent to Roth's registered address, a P.O. Box address which Roth later provided, and his home address.

21. Other than a response to the August 20, 2012 letter, the MREC has not received a written response to any of the letters or emails sent to Roth and Precise Property.

#### **April 16, 2013 Failure to Respond-Kraan**

22. On or about April 15, 2013, the MREC received a complaint regarding the real estate and property management practices of Roth and Precise Property.

23. Jacob Kraan, the owner of real property that Roth and Precise Property managed, alleged that Roth and Precise Property owed the

complainant \$3,246.23.

24. After it reviewed the complaint, the MREC sent a letter via certified mail on or about April 16, 2013 to Roth and Precise Property's registered address requesting that Roth and Precise Property respond to the complainant's allegations.

25. On or about April 18, 2013, Michelle Anderson, Precise Property's Office Manager, signed the certified mail return receipt.

26. On or about May 17, 2013, the MREC received a response from Mark Roth, requesting fifteen additional days to respond to the complaint and that he would respond by May 31, 2013.

27. A response was not received from Roth or Precise Property by May 31, 2013.

28. On or about June 18, 2013, the MREC sent another letter to another address the MREC had on file for Roth and Precise Property.

29. Other than a response to the April 16, 2013 letter requesting additional time to respond, the MREC has not received a written response to any of the letters sent to Roth and Precise Property.

#### **May 10, 2013 Failure to Respond-Davis**

30. On or about May 10, 2013, the MREC received a complaint regarding the real estate and property management practices of Roth and Precise Property.

31. Candice Davis, the new property manager for an owner of real property that was formerly managed by Roth and Precise Property, alleged that Roth and Precise Property owed the owner \$6,075 and that Roth and Precise Property would not transfer rents and security deposits to the new property manager.

32. After it reviewed the complaint, the MREC sent a letter via certified mail on or about May 10, 2013 to Roth and Precise Property's business address requesting that Roth and Precise Property respond to the complainant's allegations.

33. On or about May 13, 2013, Michelle Anderson, Precise Property's Office Manager, signed the certified mail return receipt.

34. After not receiving a response, the MREC sent a second letter requesting a response on or about June 18, 2013.

35. The MREC has not received a written response to any of the letters sent to Roth and Precise Property.

#### **May 29, 2013 Failure to Respond-Caesarowicz**

36. On or about May 28, 2013, the MREC received a complaint regarding the real estate and property management practices of Roth and Precise Property.

37. Mark Caesarowicz, the owner of real property that Roth and Precise Property managed, alleged that Roth and Precise Property owed the

complainant \$4,581.60 and allowed a tenant to cause approximately \$9,000 worth of damage to the complainant's property.

38. After it reviewed the complaint, the MREC sent a letter via certified mail on or about May 29, 2013 to Roth and Precise Property's registered address requesting that Roth and Precise Property respond to the complainant's allegations.

39. On or about May 31, 2013, Avrielle Roth, Precise Property's Registered Agent, signed the certified mail receipt.

40. Having not received a response, the MREC, on or about July 12, 2013, sent another letter to another address the MREC had on file for Roth and Precise Property.

41. The MREC has not received a written response to any of the letters sent to Roth or Precise Property.

#### **August 14, 2013 Failure to Respond-Hunt**

42. On or about August 9, 2013, the MREC received a complaint regarding the real estate and property management practices of Roth and Precise Property.

43. Dennis Hunt, the owner of real property that Roth and Precise Property managed, alleged that Roth and Precise Property owed the complainant \$7,645.

44. After it reviewed the complaint, the MREC sent a letter via

certified mail on or about August 14, 2013 to Roth and Precise Property's registered address requesting that Roth and Precise Property respond to the complainant's allegations.

45. Having not received a response, the MREC, on or about September 25, 2013, sent another letter to the registered address on file.

46. The MREC has not received a written response to any of the letter sent to Roth or Precise Property.

47. Section 339.100.2, RSMo Supp. 2012, provides in relevant part:

The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

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(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of §§ 339.010 to 339.180 and §§ 339.710 to 339.860, or of any lawful rule adopted pursuant to §§ 339.010 to 339.180 and §§ 339.710 to 339.860;

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(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

48. Because Roth and Precise Property have failed to respond in writing to the MREC's written requests or inquiries, as set forth herein, Roth and Precise Property have violated 20 CSR 2250-8.170(1), which states:

(1) Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

49. Roth and Precise Property's violations of 20 CSR 2250-8.170(1) constitute cause to discipline Roth's real estate broker associate licenses and Precise Property's real estate association license pursuant to § 339.100.2(15), RSMo Supp. 2012.


50. Roth and Precise Property's repeated failure to respond in writing to the commission's written requests, as set forth herein, constitutes untrustworthy, improper and/or fraudulent business dealings, demonstrates bad faith and/or incompetence, misconduct, and/or gross negligence, thus, providing cause to discipline their licenses pursuant to § 339.100.2(19), RSMo Supp. 2012.

WHEREFORE, Petitioner respectfully requests this Commission to conduct a hearing in this cause pursuant to Chapter 621, RSMo, and thereafter to issue its findings of fact and conclusions of law determining that Petitioner may take disciplinary action against the real estate licenses of

Mark Roth and Precise Property Management for violations of Chapter 339, RSMo, and the regulations promulgated thereunder, and for such other and further relief this Commission deems just and proper.

Respectfully submitted,

CHRIS KOSTER  
Attorney General

A handwritten signature in black ink, appearing to read "Ron Dreisilker", is written over a horizontal line.

Ron Dreisilker  
Assistant Attorney General  
Missouri Bar No. 64825

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**ATTORNEYS FOR PETITIONER**